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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

JAMES L. KING,

Defendant and Appellant.

D069414

(Super. Ct. No. SCD262029)

APPEAL from a judgment of the Superior Court of San Diego County, Timothy R. Walsh, Judge. Affirmed.

Ashley N. Johndro, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

James King was charged with numerous counts and enhancing allegations, including the charge in count 2 that he unlawfully committed an assault on another with a

deadly and dangerous weapon (Pen. Code, § 245, subd. (a)(1))<sup>1</sup> and personally used a deadly weapon in connection with that count. (§ 1192.7, subd. (c)(23).)<sup>2</sup> The complaint further alleged King had seven prior felony convictions (§ 1203, subd. (e)(4), and served one prison prior and had not remained free of prison custody and free of the commission of a felony offense for five years following his release from prison (§§ 667.5, subd. (b), 668.), and had a prior serious felony prior conviction within the meaning of section 667, subdivision (a). The complaint also alleged three strike prior convictions under the three strikes law. (§§ 667, subds. (b)-(i), 1170.12, 668.)

King entered into a plea bargain pursuant to which he pleaded guilty to count 2 and admitted the personal use of a deadly weapon allegation appended to count 2, the prison prior and serious felony allegations, and a prior strike conviction, in exchange for a stipulated 12-year term in state prison and dismissal of the remaining charges and allegations, consisting of the middle term for count 2 (three years), doubled because of the strike prior, an additional and consecutive term of five years for the serious felony prior, and a final year for his admission of a prison prior. The court also imposed various

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<sup>1</sup> All further statutory references are to the Penal Code unless otherwise specified.

<sup>2</sup> King was also charged with making a criminal threat and personally using a deadly weapon in connection with that threat (§§ 422, 12022, subd. (b)(1), 1192.7, subd. (c)(23), count 1), assault on another by means of force likely to produce great bodily injury and with personal use of a dangerous and deadly weapon in connection with that assault (§§ 245, subd. (a)(4), 1192.7, subd. (c)(23), count 3), threatening a witness (§ 140, count 4), and attempting to dissuade a witness from reporting a crime (§ 136.1, subd. (b)(1).) The complaint also alleged King committed counts 4 and 5 while released from custody and on his own recognizance pending final judgment on an earlier felony offense. (§ 12022.1, subd. (b).)

finest and fees, with restitution to the victim in an amount to be determined at a later date, and dismissed the remaining counts and allegations.

King timely filed a notice of appeal. We affirm the judgment.

### FACTS

King admitted that, on May 11, 2015, he unlawfully assaulted another with a deadly and dangerous weapon and personally used a deadly weapon in connection with that assault. He also admitted he served a prior prison term within the meaning of sections 667.5, subdivision (a), and 668, and had a serious felony prior within the meaning of sections 667, subdivision (a)(1), 668 and 1192.7, subdivision (c). He also admitted he suffered a prior strike conviction within the meaning of section 667, subdivisions (b) through (i).

### DISCUSSION

Appointed appellate counsel has filed a brief summarizing the facts and proceedings below. Counsel presents no argument for reversal, but asks this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738. Counsel identifies, as a possible issue, whether the trial court erred by imposing enhancements for both a serious felony prior conviction and a prior prison term based on multiple convictions arising from the same court case, and whether King's current conviction authorized imposition of the serious felony prior enhancement under section 667, subdivision (a)(1). Counsel also identifies, as a possible issue, whether King would be estopped from raising either or both of these

arguments, even assuming they were meritorious, because he was sentenced to the agreed term. However, counsel presents no argument for reversal on these issues.

We granted King permission to file a supplemental brief on his own behalf, but he has not responded. A review of the record pursuant to *People v. Wende, supra*, 25 Cal.3d 436 and *Anders v. California, supra*, 386 U.S. 738 has disclosed no reasonably arguable appellate issues. King has been competently represented by counsel on this appeal.

#### DISPOSITION

The judgment is affirmed.

McDONALD, J.

WE CONCUR:

HALLER, Acting P. J.

O'ROURKE, J.